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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **LEANDRO CO ALCARAZ**
120 West 223rd Street, Unit 10
14 Carson, CA 90745

15 Registered Nurse License No. 697036

16 Respondent.

Case No. 2011-831

ACCUSATION

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about February 8, 2007, the Board of Registered Nursing (Board) issued
24 Registered Nurse License No. 697036 to Leandro Co Alcaraz (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein, and
26 will expire on March 31, 2012, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 STATUTORY PROVISIONS

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 (b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued.

14 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
21 including a licensee holding a temporary or an inactive license, for any reason provided in Article
22 3 (commencing with section 2750) of the Nursing Practice Act.

23 6. Section 2761 states, in pertinent part:

24 "The board may take disciplinary action against a certified or licensed nurse or deny an
25 application for a certificate or license for any of the following:

26 (a) Unprofessional conduct, which includes, but is not limited to, the following:

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1 (f) Conviction of a felony or of any offense substantially related to the qualifications,
2 functions, and duties of a registered nurse, in which event the record of the conviction shall be
3 conclusive evidence thereof."

4 7. Section 2762 states, in pertinent part:

5 "In addition to other acts constituting unprofessional conduct within the meaning of this
6 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
7 chapter to do any of the following:

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9 (b) Use any controlled substance as defined in Division 10 (commencing with Section
10 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
11 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
12 himself or herself, any other person, or the public or to the extent that such use impairs his or her
13 ability to conduct with safety to the public the practice authorized by his or her license.

14 (c) Be convicted of a criminal offense involving the prescription, consumption, or
15 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
16 or the possession of, or falsification of a record pertaining to, the substances described in
17 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
18 thereof."

19 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not
20 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
21 to render a decision imposing discipline on the license.

22 REGULATORY PROVISIONS

23 9. California Code of Regulations, title 16, section 1444 states, in pertinent part:

24 "A conviction or act shall be considered to be substantially related to the qualifications,
25 functions or duties of a registered nurse if to a substantial degree it evidences the present or
26 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
27 safety, or welfare."

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COST RECOVERY

10. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and 490, as defined in California Code of Regulations, title 16, section 1444, in that, Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse. On or about September 1, 2010, after pleading *nolo contendere*, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Leandro Co Alcaraz* (Super. Ct. Los Angeles County, 2010, No. OBF03282). The Court placed Respondent on probation for 36 months, with terms and conditions.

12. The circumstances surrounding the conviction are that on or about May 11, 2010, Respondent drove a vehicle while having 0.08% or more, by weight, of alcohol in his blood and collided into a wooden utility pole. While speaking to Respondent, the arresting Los Angeles County Sheriff's Department Deputy detected a strong odor of alcohol emitting from his breath and person. Respondent was observed to have bloodshot and glassy eyes, and slurred speech. When asked if he had anything to drink that day, Respondent admitted to having 3-4 beers just prior to driving and being involved in the solo vehicle accident. Respondent submitted to Field Sobriety Tests which he was unable to perform as instructed, and a breath test, which resulted in a reading of a blood-alcohol content level of 0.19%. Respondent was arrested for violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or drugs], which was later changed at the time of his plea agreement by interlineation of the criminal complaint to Vehicle Code section 23152, subdivision (b).

1 **SECOND CAUSE FOR DISCIPLINE**

2 *(Dangerous Use of Alcohol)*

3 13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
4 defined in section 2762, subdivision (b), in that, on or about May 11, 2010, Respondent used
5 alcoholic beverages to an extent or in a manner dangerous or injurious to himself, and the public,
6 when he operated a vehicle while having approximately 0.19% of alcohol in his blood.
7 Complainant refers to, and by this reference incorporates, the allegations set forth above in
8 paragraphs 11 and 12, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 *(Conviction Involving Consumption of Alcohol)*

11 14. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
12 defined in section 2762, subdivision (c), in that, on or about September 1, 2010, Respondent was
13 convicted of a crime involving the consumption of alcohol. Complainant refers to, and by his
14 reference incorporates, the allegations set forth above in paragraph 11 and 12, as though set forth
15 fully.

16 **PRAYER**

17 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board issue a decision:

- 19 1. Revoking or suspending Registered Nurse License No. 697036, issued to Leandro Co
20 Alcaraz;
21 2. Ordering Leandro Co Alcaraz to pay the Board the reasonable costs of the
22 investigation and enforcement of this case, pursuant to section 125.3; and
23 3. Taking such other and further action as deemed necessary and proper.

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25 DATED: 4/11/11

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant